

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Assessment and Collection)
of Regulatory Fees for)
Fiscal Year 1995)

MD Docket No. 95-3

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REPLY COMMENTS OF
TIME WARNER COMMUNICATIONS

Time Warner Communications ("Time Warner") herewith submits its Reply to the initial comments filed in response to the Federal Communications Commission's ("FCC" -or "Commission") Notice of Proposed Rulemaking in the above-captioned proceeding.^{1/} The Commission's *Notice* proposes two methods for calculating the regulatory fees paid by Local Exchange Carriers ("LECs") and Competitive Access Providers ("CAPs").

Time Warner has reviewed the comments filed herein and agrees with the position of various commenters that the Commission's fee assessment should be made on the basis of service revenues. Comments of MFS Communications Company, Inc. ("MFS"); Comments of Teleport Communications Group, Inc. ("TCG"); Comments of Cablevision Lightpath, Inc. ("Cablevision"). *See also*, Comments of US West; Comments of AT&T; Comments of Southwestern Bell Corporation ("SWB").

^{1/} *Assessment and Collection of Regulatory Fees for Fiscal Year 1995*, MD Docket No. 95-3 (released January 12, 1995). ("Notice")

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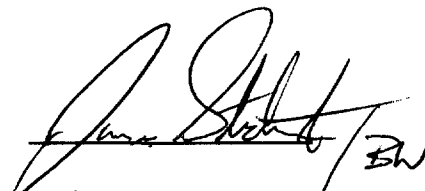
Numerous commenters note that the Commission's proposed methodology would impose excessive and inequitable fees on competitive carriers, would be speculative, and would be impractical to administer. Comments of MFS at 4-5; Comments of Cablevision at 1-2; Comments of TCG at 4; Comments of the Association for Local Telecommunications Services ("ALTS") at 3-4. According to ALTS, the present proposal would increase regulatory fees for competitive local exchange and access providers by as much as 440,000%. Comments of ALTS at 4. Likewise, Cablevision indicates that the Commission's proposals would force an immediate 200% increase in its regulatory fees. Comments of Cablevision at 3. Several competitive carriers attest to the fact that these fee increases will profoundly affect their ability to compete. See Comments of Cablevision at 3; Comments of MFS at 2; Comments of TCG at 1,5.

Additionally, numerous commenters object to the speculative nature of the Commission's fee mechanism. Comments of MFS at 4; Comments of AT&T at 3; Comments of Cablevision at 4. Time Warner agrees with such concerns. For example, MFS notes that because of the flux in usage patterns, extrapolation based on historical data would be fundamentally flawed and highly speculative. Comments of MFS at 4-5. Accordingly, burdensome reporting requirements would be necessary to ensure accurate fee payments. *Id.* Similarly, TCG notes that both the proposed use of "equivalent voice grade services" and minutes of use fee methodologies artificially exaggerate a CAP's revenue opportunity when compared with the LECs. Comments of TCG at 2-3. For example, while a CAP may receive only limited revenue for the provision of DS3 services, the LECs can obtain an additional \$60,000 in revenues from services that are interconnected to the transport DS3 services, such as the provision of multiplexing, and voice grade channel terminations. *Id.*

Accordingly, Time Warner respectfully requests that the Commission adopt a revenue based fee structure as suggested by several commenters. A revenue based structure will be more equitable, less speculative and less burdensome to implement. *See* Comments of AT&T at 4-7. A revenue based fee will permit the Commission to assess fees in a neutral fashion by avoiding the unfair impact on data service providers. Comments of MFS at 1. Furthermore, a revenue based scheme will be less speculative because revenues provide a "more realistic surrogate" for actual network usage and fluctuate less dramatically than usage patterns. Comments of MFS at 5. Similarly, a revenue based method would avoid the calculation problems inherent the application of both the proposed customer unit and minutes of use ("MOU") alternatives. Comments of MFS at 2; Comments of SWB at 4-7; Comments of TCG at 4; Comments of A&T at 4, 6. Furthermore, a revenue based fee will permit the Commission to assess fees without having to rely on assumptions or projections. *See* Comments of MFS at 4; Comments of AT&T at 3. Lastly, as several commenters note, revenues are widely reported and easily verifiable and would eliminate the need for a more burdensome reporting requirement. Comments of MFS at 5.

Therefore, Time Warner respectfully suggests that the Commisison should adopt a regulatory fee assessment methodology based on service revenues.

Respectfully Submitted,



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February 28, 1995

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of February, 1995, copies of the foregoing
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